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Attorney Docket No.: FORT-002-002**

## **REMARKS**

By this paper, claims 1, 4, 8, 20, 21, 31, 34, 35 and 40 are amended. Claims 5-7, 11, 23, 24 and 36 are canceled, and new claims 41-50 are added. Claims 1-4, 8-9, 20-21, 26-35 and 37-50 are pending. Support for the amendments presented above is provided throughout the specification and claims as originally filed. Applicant expressly reserves the right to prosecute the subject matter of the unamended and/or cancelled claims, or any other subject matter supported by the Specification, in one or more continuation applications. In view of the foregoing amendments and the following remarks, reconsideration and allowance of all the pending claims is anticipated.

### ***Rejections Under 35 U.S.C. § 112***

Claims 1 and 2 currently stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicant respectfully traverses.

#### **I. Claim 1.**

In the Final Office Action, the Examiner alleged that claim 1 fails to comply with the written description requirement because the Applicant clearly asserted that the "product related page 125" is equivalent to the claimed "data" and because the "point of presentation" cannot be "the presentation device 34". The Applicant respectfully disagrees.

First, the Applicant did not clearly assert that the "product related page 125" is equivalent to the claimed data. In the previous Response to Office Action, the Applicant has quoted the statement "the Seller's E-Commerce server 132 then returns the product-related page 12 to the presentation device 34" to illustrate the claimed "data" is "transmitted to the point of presentation... from a server" as part of the product-related page 125. Indeed, lines 4-7 of paragraph [0037], which was also cited by the Applicant

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in the previous Response, clearly state that “the Seller’s E-Commerce Server 132 ... may produce a product-related page 125 containing the product’s information...”. Thus, it would be self-contradictory and illogical for the Applicant to assert that the claimed “data” is equivalent to the “product related page 125.”

Secondly, while the claimed “point of presentation,” in one embodiment of the invention, may refer to a Web-page, the claimed term may carry other meanings, such as “the time at which products are presented.” (Specification, paragraph [0027]). The Examiner’s Response to Arguments in the Final Office Action is using merely an example of what a “point of presentation” may be as the only definition of the term, and did not consider the other cited paragraph [0037]. The Examiner is urged to view the term “point of presentation” broadly in a view of the plain meaning of the term, the general customary use of the term and the exemplary uses of the term in entire specification and their context.

To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention. See, e.g., *Moba, B.V. v. Diamond Automation, Inc.*, 325 F.3d 1306, 1319, 66 USPQ2d 1429, 1438 (Fed. Cir. 2003). The fundamental factual inquiry is whether the specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention as now claimed. Applicant respectfully asserts that, given proper interpretation of the terms of claim 1, at least the cited sections of the specification (paragraphs 0027 and 0037) as well as FIG. 3 demonstrate that applicant was, indeed, in possession of the elements of the claim 1.

For at least these reasons the rejection of claim 1 under § 112 should be withdrawn.

## **II. Claim 2.**

As discussed above, the Examiner’s Response to Arguments is using merely an example of what a “point of presentation” may be as a definition of the term, which is

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clearly not consistent with the plain meaning of the term, the general customary use of the term and the exemplary uses of the term in entire specification and their context. Applicant respectfully asserts that, given proper interpretation of the terms of claim 2, at least the cited sections of the specification (paragraphs 0027 and 0037) as well as FIG. 3 demonstrate that applicant was, indeed, in possession of the elements of the claim 2. For this reason, the rejection of claim 2 under § 112 should be withdrawn.

### ***Rejections Under 35 U.S.C. § 102***

Claims 1-4, 8-9, 20-21, 31-35 and 38-40 currently stand rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by Harrington USP 5,895,454 (hereinafter "Harrington"). Applicant traverses in part and overcomes in part.

#### **I. Claims 1-4 and 31.**

The cited sections of Harrington do not teach or suggest all of the features of claim 1. For example, claim 1, as amended recites *inter alia* the following features which are not taught or suggested by the sections of Harrington relied on in the Office Action:

**wherein ... data ... is transmitted ... from a server at a third network location in response to a user request for a Web-page, and wherein rendering of the Web-page by the point of presentation causes the point of presentation to transmit the data to the first network location...**

The sections of Harrington relied on by the Examiner generally teach a commerce server through which a user can browse products available and make purchases, and commerce server would record the purchase orders made. As the Examiner stated in the Final Office Action, if a user of the Harrington system "clicks on a purchase icon or button", "a transaction notification in the form of a data packet including product/service ordered, the price, availability and other identifying data relevant to the user is transmitted to the database administration software 21." The

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Examiner further stated that the "transaction notifications in the form of data packets are recorded in a database."

In the claimed invention, the point of presentation receives data sent from one network location in response to a request for Web-page; and, upon rendering the Web-page, the point of presentation transmits the data to a database at another network location. Importantly, the rendering of the Web-page itself causes the point of presentation to transmit the data to the database. This is in sharp contrast to the teachings of Harrington, which requires the user clicking certain buttons to cause the "transaction notification" to be sent to the database.

For at least these reasons the rejection of claim 1 based on Harrington should be withdrawn. Claims 2-4 and 31 depend from claim 1. Therefore, the rejection of claims 2-4 and 31 based on Harrington should be withdrawn due to the dependency of these claims, as well as for the features that they recite individually.

Claim 4, in addition to being dependent on claim 1, should be patentable over Harrington for having a limitation that is not found in the Harrington reference.

Col. 4 lines 8-16 of Harrington states:

FIG. 2 illustrates a schematics... The database 10 would contain information ... relating to vendor products, locations, website addresses, price, maps etc. A user 11 would (after connecting to the database machine) specify particular criteria which would be used by the database search engine 21 to provide a list of suitable websites which match the users product/service criteria. The database front-end 20 would then provide connectivity functionality 22 to enable the user to connect 35 to any of the websites 12a-g (in FIG. 1) ...

In the section above, Harrington clearly teaches that the database would contain information relating to vendor products such that a user could use the database search engine to find the websites that match the user's product/service criteria. It logically follows that Harrington could not have taught or suggested the limitation of claim 4 that "the merchandising product database does not have information related to the product prior to the storing step." For at least this reason, the rejection of claim 4 based on Harrington should be withdrawn.

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## **II. Claims 8-9 and 32.**

The cited sections of Harrington do not teach or suggest all of the features of claim 8. For example, claim 8 recites *inter alia* the following features which are not taught or suggested by the sections of Harrington relied on in the Office Action:

an interface configured ... to obtain selected product data related to a product presented at a second network location on a Web-page served by a server at a third network location, wherein the selected product data includes data that is transmitted to the second network location from the server at the third network location in response to a user request for the Web-page, and wherein **rendering of the Web-page at the second network location causes the data to be transmitted from the second network location to the interface...**

As was discussed above, the sections of Harrington cited in the Office Action at best teach or suggest sending data to be stored at a remote location upon a user making a purchase and clicking on the "purchase button." Thus, the cited sections of Harrington fail to teach or suggest the claim limitation that "rendering of the Web-page at the second network location causes the data to be transmitted from the second network location to the interface."

Accordingly, for at least this reason the rejection of claim 8 based on Harrington should be withdrawn. Claims 9 and 32 depend from claim 8. Therefore, the rejection of claims 9 and 32 based on Harrington should be withdrawn due to the dependency of these claims, as well as for the features that they recite individually.

## **III. Claims 20-21 and 33.**

The cited sections of Harrington do not teach or suggest all of the features of claim 20. For example, claim 20 recites *inter alia* the following features which are not taught or suggested by the sections of Harrington relied on in the Office Action:

wherein the selected product information includes data that is obtained by the point of presentation from the server in response to a user request for the Web-page, and wherein rendering of the Web-page causes the point of

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presentation to transmit the data to the computer device

As was discussed above, the sections of Harrington cited in the Office Action at best teach or suggest sending data to be stored at a remote location upon a user making a purchase and clicking on the "purchase button." Thus, the cited sections of Harrington fail to teach or suggest a point of presentation that automatically transmits the data to a computer device at a different network location upon loading the Web-page.

Therefore, for at least this reason the rejection of claim 20 based on Harrington should be withdrawn. Claims 21 and 33 depend from claim 20. Therefore, the rejection of claims 21 and 33 based on Harrington should be withdrawn due to the dependency of these claims, as well as for the features that they recite individually.

#### **IV. Claims 26-30.**

The cited sections of Harrington do not teach or suggest all of the features of claim 26. For example, claim 26 recites *inter alia* the following features which are not taught or suggested by the sections of Harrington relied on in the Office Action:

rendering in response to user interaction with an interactive catalog, at least a portion of the interactive catalog at a second network location ...

**wherein said rendering causes a device at the second network location to communicate the selected data ... to the merchandising product database at the first network location such that the selected data is communicated from the source product databases to the merchandising product database by way of the second network location ...**

As was discussed above, the sections of Harrington cited in the Office Action at best teach or suggest sending data to be stored at a remote location upon a user making a purchase and clicking on the "purchase button." Thus, the cited sections of Harrington fail to teach or suggest the claim limitation that the rendering of the interactive catalog itself causes the selected data to be communicated to a database.

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Therefore, for at least this reason the rejection of claim 26 based on Harrington should be withdrawn. Claims 27-30 depend from claim 26. Therefore, the rejection of claims 27-30 based on Harrington should be withdrawn due to the dependency of these claims, as well as for the features that they recite individually.

**V. Claims 34, 35 and 38-40.**

The cited sections of Harrington do not teach or suggest all of the features of claim 34. For example, claim 34 recites *inter alia* the following features which are not taught or suggested by the sections of Harrington relied on in the Office Action:

**wherein said product data is embedded in a Web-page transmitted to said presentation device from a third network location, ... and wherein rendering of said Web-page causes said presentation device to transmit said product data to said first network location...**

As was discussed above, the sections of Harrington cited in the Office Action at best teach or suggest sending data to be stored at a remote location upon a user making a purchase and clicking on the "purchase button." Thus, the cited sections of Harrington fail to teach or suggest the rendering of a Web-page causes the presentation device at one network location to transmit product data to another network location.

Therefore, for at least this reason the rejection of claim 34 based on Harrington should be withdrawn. Claims 35 and 38-40 depend from claim 34. Therefore, the rejection of claims 35 and 38-40 based on Harrington should be withdrawn due to the dependency of these claims, as well as for the features that they recite individually.

***Rejections Under 35 U.S.C. § 103***

Claims 29 ad 37 currently stands rejected under 35 U.S.C. § 103 for allegedly being unpatentable over Harrington in view of Musgrove USP 6,535,880. Applicant traverses this rejection at least on the grounds that the references do not teach or suggest the claimed limitations, individually or in combination.

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Claim 29 depends from claim 26, and claim 37 depends from claim 34. As was discussed above, Harrington does not teach or suggest features of claim 26 and/or 34. The cited sections of Musgrove also fail to teach or suggest such features. Therefore, the rejection of claims 29 and 37 based on Harrington should be withdrawn due to the dependency of this claim.

***Newly Added Claims***

Claims 41-50 are newly added by this Response.

Claims 41-42 depend from independent claim 34; claims 43-44 depend from independent claim 1; claims 45-46 dependent from independent claim 8; claims 47-48 depend from independent claim 20; and claims 49-50 depend from independent claim 26. As such, claims 41-50 are believed to be allowable over the cited reference by virtue of their dependency, as well as for the features that they recite individually.

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### **CONCLUSION**

Having addressed each of the foregoing objections and rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is anticipated.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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